

sons, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports as it may require to exercise the powers granted in Section 2 of this Act as amended."

Sec. 2. Chapter 521, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(40), Vernon's Texas Civil Statutes), is amended by adding ⁵² Section 2a to read as follows:

"Sec. 2a. The Governor's Division of Disaster Emergency Services shall provide clerical and other administrative services to the commission."

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the senate on May 5, 1977, by a viva-voce vote; passed the house on May 13, 1977, by a non-record vote.

Approved May 30, 1977.

Effective Aug. 29, 1977, 90 days after date of adjournment.

BOXING AND WRESTLING ACT

CHAPTER 305

S. B. No. 643

An Act revising the Texas boxing and wrestling laws, Chapter 241, General Laws, Acts of the 43rd Legislature, Regular Session, 1933, as amended (Article 8501—1 et seq., Vernon's Texas Civil Statutes); relating to the regulation and administration of boxing and wrestling and of certain contests and events; relating to licensing and bonding of certain persons; providing for fees, gross receipt taxes, certain remedies, and penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Texas boxing and wrestling laws, Chapter 241, General Laws, Acts of the 43rd Legislature, Regular Session, 1933, as amended (Article 8501—1 et seq., Vernon's Texas Civil Statutes), are revised ⁵³ to read as follows:

Short title

"Section 1. This Act may be cited as the Texas Boxing and Wrestling Act.

Purpose

"Sec. 2. It is the legislature's intent to improve the general welfare and safety of the citizens of this state. The legislature finds that the boxing and wrestling industry in this state should be regulated in order to protect the best interest of both contestants and the public, and it is the responsi-

52. Vernon's Ann.Civ.St. art. 4413(40), § 2a. 53. Vernon's Ann.Civ.St. art. 8501—1, §§ 1 to 12.

bility of the state to provide for the protection of the contestants and the public through the imposition of certain regulations on the boxing and wrestling industry and to impose a gross receipts tax upon the proceeds obtained from boxing and wrestling performances to finance said regulation. The legislature finds this to be the most economical and efficient means of dealing with this problem and serving the public interest. Accordingly, this Act shall be liberally construed and applied to promote its underlying policies and purposes.

Definitions

"Sec. 3. Whenever used in this Act, unless the context otherwise requires, the following words and terms have the following meanings:

"(a) 'Commissioner' means the commissioner of the Texas Department of Labor and Standards or his designated representative.

"(b) 'Department' means the Texas Department of Labor and Standards.

"(c) 'Person' includes an individual, association, partnership, or corporation.

"(d) 'Professional boxer or wrestler' means a person to be licensed by the department who competes for a money prize, purse, or compensation in a boxing or wrestling contest, exhibition, or match held within the State of Texas.

"(e) 'Exhibition' means a demonstration of boxing or wrestling skills.

"(f) 'Boxing' as used in the Texas Boxing and Wrestling Act includes kickboxing, a form of boxing in which blows are delivered with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot.

"(g) 'Judge' means a person to be licensed by the department who is at ringside during a boxing or wrestling match and who has the responsibility of scoring the performance of the participants in the match.

"(h) 'Referee' means a person to be licensed by the department who has the general supervision of a boxing and wrestling match or exhibition and is present inside of the ring during the match or exhibition.

"(i) 'Promoter' means a person to be licensed by the department who arranges, advertises, or conducts a boxing or wrestling contest, match, or exhibition.

Enforcement responsibility

"Sec. 4. The department shall have the sole jurisdiction and authority to enforce the provisions of this Act, and the commissioner shall investigate any allegations of activity which may violate the provisions of this Act.

"(a) The commissioner is authorized to enter at reasonable times and without advance notice any place of business or establishment where said alleged illegal activity may occur.

"(b) The commissioner is authorized to promulgate rules and regulations and hold administrative hearings in accordance with the Administrative Procedure and Texas Register Act (Article 6252—13a, Vernon's Texas Civil Statutes). The commissioner shall promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act. The commissioner is authorized to promulgate rules and regulations governing professional kickboxing contests or exhibitions, which shall be fought on the basis of the best efforts of the contestants. The commissioner shall have the power and authority

to revoke or suspend the license or permit of any judge, boxer, wrestler, manager, referee, timekeeper, second, or promoter for violations of any rule or regulation promulgated pursuant to this Act or for the violation of any provision of this Act, and he may deny an application for a license when the applicant does not possess the requisite qualifications.

“(c) The commissioner shall have the power and authority to hold a hearing regarding allegations that any person has violated or failed to comply with the provisions of this Act. In addition to the denial, revocation, or suspension of a license, the commissioner may order the forfeiture of the purse of any boxer, wrestler, or manager in an amount not to exceed \$1,000 for the violation of any rule or regulation promulgated pursuant to the Act or for the violation of any provision of this Act, and said money shall be deposited to the credit of the General Revenue Fund of the State of Texas.

“(d) In the conduct of any administrative hearing held pursuant to this Act, the commissioner may administer oaths to witnesses, receive evidence, and issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of papers and documents related to matters under investigation. Administrative hearings shall be held in conformity with the Administrative Procedure and Texas Register Act (Article 6252—13a, Vernon's Texas Civil Statutes).

Judicial review

“Sec. 5. (a) Any party to the hearing aggrieved by the decision or order of the commissioner may secure judicial review thereof in the following manner:

“(1) The petition must be filed in a district court of Travis County, Texas, within 30 days after the decision or order of the commissioner becomes final.

“(2) The filing of a petition for review shall not itself stay the effect of the decision or order complained of, but the commissioner or the reviewing court may order a stay upon appropriate terms and if a stay is so granted no supersedeas bond shall be required.

“(3) Service of process. The petition for review shall be served on the commissioner and upon all parties of record in any hearing before the commissioner in respect to the matter for which review is sought. After service of such petition upon the commissioner and within the time permitted for filing an answer or as soon thereafter as the record is made available to the commissioner, the commissioner shall certify to the district court in which such petition is filed the record of the proceedings to which the petition refers. The cost of preparing and certifying such record shall be paid to the commissioner by the petitioner and taxed as part of the cost in the case, to be paid as directed by the court upon final determination of said cause.

“(4) The review of any decision or order of the commissioner shall be tried by the court without a jury in the same manner as civil actions generally, but no evidence shall be admissible which was not adduced at the hearing on the matter before the commissioner or officially noticed in record of such hearing.

“(5) The burden of proof shall be on the plaintiff. The reviewing court may affirm the action complained of or remand the matter to the commissioner for further proceedings.

“(6) Appeals from any final judgment may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the commissioner.

Penalties

"Sec. 6. (a) A person who violates a provision of this Act or any rule or regulation of the department commits a Class A misdemeanor.

"(b) Any person who violates any provision of this Act or the rules and regulations of the department may be assessed a civil penalty to be paid to the State of Texas in an amount not to exceed \$1,000 for each such violation as the court may deem proper.

"(c) Whenever it appears that any person has violated or is threatening to violate any of the provisions of this Act or of the rules and regulations of the department, either the attorney general or the department may cause a civil suit to be instituted either for injunctive relief to restrain such person from continuing the violation or threat of violation or for assessment and recovery of the civil penalty or for both. Venue for such suit shall be in the district courts of Travis County, Texas.

Amateur athletic events

"Sec. 7. (a) The promoting, conducting, or maintaining of boxing and wrestling matches, contests, or exhibitions when conducted by educational institutions, Texas National Guard Units, or amateur athletic organizations duly recognized by the commissioner shall be exempt from the licensing and bonding provisions of this Act provided that none of the participants in such contests or exhibitions receive a money remuneration, purse, or prize for their performance or services therein.

"(b) None of the licensing and bonding provisions of this Act shall apply to or be enforced against:

"(1) all nonprofit amateur athletic associations chartered under the laws of the State of Texas, including their affiliated membership clubs throughout the state which have been recognized by the commissioner;

"(2) any contests, matches, or exhibitions between students of educational institutions which are conducted by a college, school, or university as part of the institution's athletic program;

"(3) contests, matches, or exhibitions between members of any troop, battery, company, or units of the Texas National Guard.

"(c) When an admission fee is charged by any person conducting or sponsoring an amateur boxing and wrestling contest, match, or exhibition, except those amateur events exempted in Section 7(b) herein, the gross receipts tax hereinafter provided in Section 11 of this Act shall apply and must be paid by the sponsoring person. In addition, amateur boxing or wrestling contests wherein an admission fee is charged shall be conducted under the following conditions:

"(1) The commissioner must approve the contest, match, or exhibition at least seven days in advance of the event.

"(2) All entries shall be filed with the amateur organization at least three days in advance of the event.

"(3) The amateur organization shall determine the amateur standing of all contestants.

"(4) The amateur contest, match, or exhibition shall be subject to the supervision of the commissioner, and all profits derived from such contests shall be used in the development of amateur athletics.

"(5) Only referees and judges licensed by the commissioner may participate in amateur contests, matches, or exhibitions.

"(6) All contestants shall be examined by a licensed physician within a reasonable time prior to the event, and a licensed physician shall be in attendance at the ringside during the entire event.

"(7) All professional boxers and wrestlers licensed under this Act are prohibited from participating in any capacity during an amateur contest, match, or exhibition.

Promoters

"Sec. 8. (a) No person shall act as a promoter of either boxing or wrestling until he has been licensed pursuant to this Act.

"(b) The application for a promoter's license shall be made upon a form furnished by the commissioner and shall be accompanied by an annual license fee and the license or registration fee shall be \$20 for a Boxing Promoter's License and \$20 for a Wrestling Promoter's License in a city with a population not exceeding 10,000; \$50 in cities with a population of 10,001 to 25,000, inclusive; \$100 in cities with a population of 25,001 to 100,000, inclusive; \$200 in cities with a population of 100,001 to 250,000, inclusive; and \$300 in a city above 250,001 inhabitants. The application for a promoter's license shall be accompanied by a surety bond subject to the approval of the commissioner and conditioned for the payment of the tax hereby imposed. The commissioner shall fix the sum of the surety bond, but the sum may not be less than \$300.

"(c) The surety bond shall be issued by a company authorized to do business in Texas and shall be in conformity with the Insurance Code.

"(d) The surety bond shall be to the state for the use by the state or any political subdivision thereof who establishes liability against a promoter for damages, penalties, taxes, or expenses resulting from promotional activities conducted within the State of Texas.

"(e) The bond shall be open to successive claims up to the amount of face value, and a new bond must be filed each year. The bonding company is required to provide written notification to the department at least 30 days prior to the cancellation of the bond.

Other required licenses

"Sec. 9. (a) No person shall act as a professional boxer or wrestler, manager of a professional boxer or wrestler, referee, judge, second, timekeeper, or matchmaker until he has been licensed pursuant to this Act.

"(b) The application for a license shall be made upon a form furnished by the commissioner and shall be accompanied by an annual license fee as follows:

"(1) boxer	—	\$10
"(2) wrestler	—	\$10
"(3) manager	—	\$50
"(4) matchmaker	—	\$50
"(5) judge	—	\$15
"(6) referee	—	\$15
"(7) second	—	\$ 5
"(8) timekeeper	—	\$ 5

"(c) Revenue obtained from license fees shall be deposited to the credit of the General Revenue Fund.

License qualifications

"Sec. 10. (a) The commissioner is authorized to promulgate rules and regulations setting forth reasonable qualifications for applicants

seeking licenses as a promoter, manager, matchmaker, professional boxer or wrestler, judge, referee, second, or timekeeper.

“(b) The commissioner may after investigation and hearing deny an application for a license when the applicant has failed to meet the established qualifications or has violated any provision of this Act or any rule or regulation issued pursuant to this Act.

Gross receipts tax

“Sec. 11. (a) Any person who conducts a boxing or wrestling match, contest, or exhibition wherein an admission fee is charged shall furnish to the department within 72 hours after the termination of the event a duly verified report on a form furnished by the department showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the event. A cashier's check or money order made payable to the State of Texas in the amount of three percent of the total gross receipts of the event shall be attached to the verified report.

“(b) Any person who charges an admission fee for exhibiting a simultaneous telecast of any live, spontaneous, or current boxing or wrestling match, contest, or exhibition on a closed circuit telecast must possess a promoter's license issued pursuant to this Act and must obtain a permit for each closed circuit telecast shown in Texas. The three percent gross receipts tax described in Section 11(a) herein is applicable to said telecast, and the promoter shall furnish to the department within 72 hours after the event a duly verified report on a form furnished by the department showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the event. A cashier's check or money order made payable to the State of Texas in the amount of three percent of the total gross receipts of the event shall be attached to the verified report.

“(c) Revenue obtained by the department from the three percent gross receipts tax shall be deposited to the credit of the General Revenue Fund.

“(d) The admissions tax provided in Chapter 21, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, shall not be applicable to said telecast.

“Sec. 12. The Department of Public Safety shall upon request supply to the Texas Department of Labor and Standards any available arrest and conviction records of individuals applying for or holding any license under this Act.”

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the senate on April 21, 1977: Yeas 31, Nays 0; passed the house on May 20, 1977: Yeas 119, Nays 17, fourteen present not voting.

Approved May 30, 1977.

Effective Aug. 29, 1977, 90 days after date of adjournment.